THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.

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SCHEDULE.

BOMBAY ACT No. VII OF 1925.[1]

[THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.]

[*4th December 1925*]

Amended by Bom. 8 of 1933.
" " " 22 of 1935.
" " " 8 of 1936.
" " " 17 of 1936.
" " " 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 29* of 1942.
" " " 16* of 1943.
" " " 28 of 1948.
" " " 14 of 1949.
" " " 53 of 1949.
" " " 12 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 2 of 1952.
" " " 22 of 1952.
" " " 18 of 1953.
" " " 41 of 1953.

An Act to consolidate and amend the law relating to Co-operative Societies in the Presidency of Bombay.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay; and whereas the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:—

5 & 6 Geo. V, c 61.

[2][CHAPTER I.

PRELIMINARY.]

1. This Act may be called the Bombay Co-operative Societies Act, 1925. Short title.

2. This Act extends to the whole of the Presidency of Bombay. Extent.

3. In this Act, unless there is anything repugnant in the subject or context, Definitions.

(*a*) "by-laws" means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-laws;

(*b*) "Committee" means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;

[3][(*bb*) "banking company" means a banking company as defined in clause (*b*) of section 5 of the Banking Companies Act, 1949;

X of 1949.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1924, Part V, pp. 46-48; for Report of Select Committee, *see ibid.*, 1924, Part V, pp. 108-13 and *ibid.*, 1925, Part V, pp. 68-70; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925. Vols, XII, XIII and XV.

* This Act has been repealed and re-enacted by Bom. 28 of 1948, s. 2.

[2] The words and figure "Chapter I—*Preliminary*" were substituted for the word "*Preliminary*" by Bom. 8 of 1936, s. 2.

[3] These clauses were inserted by Bom. 2 of 1952, s. 2.

(*b2*) "company" means a company as defined in clause (2) of sub-section (*1*) of section 2 of the Indian Companies Act, 1913, and includes a banking company ; VII of 1913.

(*b3*) "firm" means a firm registered under section 59 of the Indian Partnership Act, 1932 ;] IX of 1932.

(*c*) "Member" includes a person joining in the application for the registration of a society or a person admitted to membership after registration [1][in accordance with this Act or] the rules and by-laws applicable to such society ;

(*d*) "Officer" includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society ;

(*e*) "Society" means a society registered or deemed to be registered under this Act ;

(*f*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(*g*) "Rules" means rules made under this Act ;

(*h*) (*1*) a "Resource society" means a society formed with the object of obtaining for its members the credit, goods or services required by them ;

(*2*) a "Producers' society" means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society ;

(*3*) a "Consumers' society" means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the by-laws of such society, the profits accruing from such supply and distribution ;

(*4*) a "Housing society" means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws ;

[2][(*5*) a "General society" means a society not falling under any of the classes of societies defined in any other clauses of this section ;]

[3][(*6*) a "Federal society" means a society not less than three-fourths of the members of which are societies ;]

[4][(*7*) a "Farming society" means a society formed with the object of promoting development of land and better methods of cultivation by means of improved seed, manure, irrigation, bunding, tractor ploughing, gully plugging and soil conservation.

Explanation.—A Farming society shall be of two classes :—(1) a Better farming society, and (2) a Co-operative farming society :—

(*i*) A Farming society shall be classed as a Better farming society if the predominant object is the application of improved methods of cultivation. A Better farming society includes a Crop protection society ;

(*ii*) A Farming society shall be classed as a Co-operative farming society if the predominant object is the application of co-operative methods by the holders of lands and in respect of cultivation.]

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final :

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[1] These words were substituted for the words "in accordance with" by Bom. 22 of 1952, s. 2 (*1*).
[2] This sub-clause was substituted for the original, *ibid.*, s. 2 (*2*) (*i*).
[3] Sub-clause (*6*) was inserted by Bom. 28 of 1948, s. 3 (*i*).
[4] This sub-clause was inserted by Bom. 14 of 1949, s. 2 (*1*).

[1][CHAPTER II.

REGISTRATION.]

The Registrar.

4. [2][The Provincial Government] may appoint a person to be Registrar of Co-operative Societies for the presidency or any portion of it, and may appoint a person or persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act.

Societies which may be registered.

[3][**5.** Subject to the provisions hereinafter contained a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society may be registered under this Act with or without limited liability :

Provided that—

(*1*) unless the Provincial Government by general or special order otherwise directs, the liability of a society of which a member is a society shall be limited ;

(*2*) the members of a society which has been registered under this Act with unlimited liability such liability not having been changed from unlimited to limited under this Act shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.]

Restrictions on interest of member of society with limited liability and a share capital.

6. Where the liability of the members of a society is limited by shares, no member other than a society shall—

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules ; or

(*b*) have or claim any interest in the shares of the society exceeding [4][ten thousand] rupees : provided that if the society is a housing society a member may have or claim an interest in the shares of the society not exceeding [5][twenty thousand rupees].

Conditions of registration.

7. (*1*) No society, other than a society of which a member is a society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its member, unless [6][all persons forming the society]—

(*a*) reside in the same town or village or in the same group of villages ; or

(*b*) save where the Registrar otherwise directs, are members of the same tribe, class [7]* or occupation [8][and no person shall be admitted to the membership of any such society after its registration unless such person fulfills the requirements of clause (*a*) or (*b*), as the case may be.]

(*2*) The word " limited " shall be the last word on the name of every society with limited liability registered under this Act.

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[1] The words and figures " Chapter II—*Registration* " were substituted for the word " *Registration* " by Bom. 8 of 1936, s. 2.

[2] The words " The Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] Section 5 was substituted for the original by Bom. 28 of 1948, s. 4.

[4] The words " ten thousand " were substituted for the words " three thousand ", *ibid.*, s. 5.

[5] The words " twenty thousand rupees " were substituted for the letters and figures " Rs. 10,000 ", *ibid.*, s. 5.

[6] These words were substituted for the words " such persons " *ibid.*, s. 6 (*i*).

[7] The word " caste " was deleted, *ibid.*, s. 6 (*ii*).

[8] These words, brackets and letters were inserted, *ibid.*, s. 6 (*iii*).

Power of Registrar to decide certain questions.

8. When any question arises whether for the purpose of the formation, or registration or continuance of a society [1][or the admission of a person as a member of a society] under this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class [2]* or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

9. (*1*) For purposes of registration an application to register shall be made to the Registrar.

(*2*) The application shall be signed,—

(*a*) in the case of a society of which no member is a society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (*1*); and

(*b*) in the case of a society of which a member is a society, by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by ten other members or, when there are less than ten other members, by all of them.

(*3*) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Annual general meeting.

12. Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members.

Special general meetings.

13. A special general meeting may be called at any time by a majority of the committee and shall be called within one month—

(*1*) on the requisition in writing of one-fifth of the members of the society, or

(*2*) at the instance of the Registrar, [3][or

(*3*) in case of a society which is a member of a federal society, at the instance of an officer of such federal society.]

Change of name : its effect.

14. A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name : but such change shall not affect any right or obligation of the society, or of any of its members, or past members and any legal proceedings pending may be continued by or against the society under its new name.

Amalgamation or transfer of societies.

15. (*1*) Any two or more societies may, with the approval of the Registrar by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society : provided that each member has had clear fifteen days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected

[1] These words were inserted by Bom. 28 of 1948, s. 7 (*i*).
[2] The words " caste " was deleted *ibid.*, s. 7 (*ii*).
[3] These words, brackets and figures were added, *ibid.*, s. 8.

without a dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(*2*) Any society may by a resolution passed in accordance with the procedure laid down in sub-section (*1*) transfer its assets and liabilities to any other society which is prepared to accept them :

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it will not be made without giving three months notice to the creditors of both or all such societies :

Provided further that if a creditor or creditors of any of the societies concerned objects or object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor or creditors have been satisfied.

Division [or conversion] of societies.

[1][**15A.** (*1*) Any society may, with the approval of the Registrar, by a resolution passed by a three-fourths majority of the members present [2][and voting] at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies [3][or to convert itself into a class of society the objects of which are materially different from that under which it has been classified under the Act,] provided that each member has had fifteen clear days written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies [4][or proposals containing detailed information in respect of the conversion of the society as aforesaid, as the case may be].

(*2*) A copy of the preliminary resolution shall be sent [5][or delivered] to all the members and creditors of the society. A notice of the resolution shall also be given in the prescribed manner to all other persons whose interests will be affected by the division [6][or conversion] of the society.

(*3*) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the resolution, intimate his intention not to become a member of any of the new societies [7][or to continue his membership in the converted society, as the case may be].

(*4*) Any creditor of the society may, notwithstanding any agreement to the contrary by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

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[1] Section 15A was inserted by Bom. 28 of 1948, s. 9.
[2] These words were inserted by Bom. 41 of 1953, s. 2 (*a*) (*i*).
[3] These words were inserted, *ibid.*, s. 2 (*a*) (*ii*).
[4] These words were added, *ibid.*, s. 2(*a*) (*iii*).
[5] These words were inserted by Bom. 12 of 1950, s. 2 (*1*).
[6] These words were inserted by Bom. 41 of 1953, s. 2 (*b*).
[7] These words were added, *ibid.*, s. 2 (*c*).

(*5*) Any other person whose interests will be affected by the division [1][or conversion] may by notice given to the society object to the division [1][or conversion] unless his claim is satisfied.

(*6*) After the expiry of three months from [2][the date of despatch or delivery of a copy of the preliminary resolution to] all the members and creditors of the society and [3][of the notice to other persons] given under sub-section (*2*), another special general meeting of the society, of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present [4][and voting] either without changes or with such changes as in the opinion of the Registrar are not material, he may, subject to the provisions of sub-section (*9*) [5][and sections 10 and 16, register the new societies or the converting society and the by-laws of the new societies or the by-laws, or the amendment of the by-laws, of the converting society, as the case may be]. On such registration, the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

(*7*) The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(*8*) At the special general meeting referred to in sub-section (*6*) provision shall be made by another resolution for—

(*i*) repayment of the share capital of all the members who have given notice under sub-section (*3*);

(*ii*) satisfaction of the claims of all the creditors who have given notice under sub-section (*4*);

(*iii*) satisfaction of the claims of such of the other persons who have given notice under sub-section (*5*) as the Registrar decides or securing their claims in such manner as the Registrar directs:

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (*6*).

(*9*) If within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (*8*) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, or the claims of the other persons are not satisfied or secured as provided in clause (*iii*) of sub-section (*8*), the Registrar may refuse to register the new societies [6][or the converting society, as the case may be].

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[1] These words were inserted by Bom. 41 of 1953, s. 2 (*d*).

[2] These words were substituted for the words "the receipt of the preliminary resolution by" by Bom. 12 of 1950, s. 2 (*2*).

[3] These words were substituted for the words "of the notice by other persons" by Bom. 41 of 1953, s. 2 (*e*).

[4] These words were inserted, *ibid.*

[5] 2These words and figures were substituted for the words and figures "and section 10, register the new societies and the by-laws thereof", *ibid.*

[6] These words were added, *ibid.*, s. 2 (*f*).

IV of 1882. XVI of 1908. (*10*) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, the registration of the new societies [1][or the converted society] shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies [1][or the converted society, as the case may be], in the manner specified in the preliminary resolution as confirmed under sub-section (*6*).]

Partnership of societies.

[2][**15B.** (*1*) Any two or more societies may, with the approval of the Registrar, by a resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into a contract of partnership for carrying out specific business or businesses, provided that each member has had clear ten days' written notice of the resolution and the date of the meeting.

IX of 1932. (*2*) Nothing in the Indian Partnership Act, 1932, shall apply to such contracts of partnership.]

Amendment of the by-laws of a society.

16. (*1*) No amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act for which purpose a copy of the amendment shall be forwarded to the Registrar.

(*2*) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment.

(*3*) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Change of liability of society from limited to unlimited or from unlimited to limited.

[3][**16A.** (*1*) A society may, subject to the provisions of section 16, by an amendment of its by-laws, change its liability from limited to unlimited or unlimited to limited.

(*2*) No such amendment shall be registered by the Registrar unless he is satisfied—

(*i*) that sufficient notice has been given to every member of the society and to any person or class of persons whose interest will, in the opinion of the Registrar, be affected by the alteration, and

(*ii*) that with respect to every such member or person who, in the opinion of the Registrar, is entitled to object,—

(*a*) either his assent has been obtained to the change,

(*b*) or if he signifies his objection—

(*i*) he is allowed to withdraw his share if he is a member, or

(*ii*) his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Registrar within three months from the date of the notice :

Provided that the Registrar may, in the case of any person or class of person for special reasons, dispense with the notice required by this sub-section.]

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[1] These words were inserted by Bom. 41 of 1953, s. 2 (*g*).
[2] Section 15B was inserted, *ibid*, s. 3.
[3] Section 16A was inserted by Bom. 28 of 1948, s. 10.

[1][CHAPTER III.

RIGHTS AND LIABILITIES OF MEMBERS.]

No rights of membership to be exercised till due payments are made.

17. No person shall exercise the rights of a member of a society unless or until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the by-laws of such society.

Votes of members.

18. (*1*) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote.

[2][(*1A*) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate shall have the right to vote.]

(*2*) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

Restrictions on transfer of share or interest.

19. (*1*) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(*2*) A member shall not transfer any share held by him or his interest in the capital or property of any society or any part thereof unless.

(*a*) he has held such share or interest for not less than one year ; [3]*

(*b*) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society ; [4][and

(*c*) the committee has approved such transfer.]

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[5][CHAPTER IV.

DUTIES OF SOCIETIES.]

Address of societies.

20. Every society shall have an address registered in accordance with the rules, to which all notices and communications may be sent and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

Copy of Act, etc., to be open to inspection.

21. Every society shall keep open to inspection at all reasonable times at the registered address of the society—

(*a*) a copy of this Act,

(*b*) a copy of the rules governing such society,

(*c*) a copy of the by-laws of such society, and

(*d*) a register of its members.

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[1] The words and figures " Chapter III—*Rights and Liabilities of Members* " were substituted for the words " *Rights and liabilities of members* " by Bom. 8 of 1936, s. 2.

[2] Sub-section (*1A*) was inserted by Bom. 28 of 1948, s. 11.

[3] The word " and " was deleted, *ibid.*, s. 12 (*i*).

[4] These words, brackets and letter were inserted, *ibid.*, s. 12 (*ii*).

[5] The words and figures " Chapter IV—*Duties of Societies* " were substituted for the words " *Duties of Societies* " by Bom. 8 of 1936, s. 2.

Audit.

22. (*1*) The Registrar shall by himself or by some person authorized by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

(*3*) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities.

The Directors, Managers, and other officers of the society shall furnish to the Registrar or other person appointed to audit the accounts of a society all such information as to its transactions and working as the Registrar or such person may require.

(*4*) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary—

(*i*) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or

(*ii*) to require the production of any book or document relating to the affairs of any cash or securities belonging to the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

[1][CHAPTER V.

PRIVILEGES OF SOCIETIES.]

Societies to be bodies corporate.

23. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim of society.

[2][**24.** (*1*)] Subject to any prior claim of [3][the Crown] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent,

(*a*) any debt or outstanding demand owing to a society by any member or past member shall be a first charge (*i*) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member, and (*ii*) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshops, godown or place of business, supplies to or purchase by such member or past member in whole or in part from any loan whether in money or goods given him by the society:

[4]* * * * * *

(*b*) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

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[1] The words and figures "Chapter V—*Privileges of Societies*" were substituted for the words "*Privileges of Societies*" by Bom. 8 of 1936, s. 2.

[2] Section 24 was numbered as sub-section (*1*) by Bom. 28 of 1948, s. 13 (*1*).

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Indian Laws Order in Council.

[4] The proviso was deleted by Bom. 28 of 1948, s. 13 (*2*).

[1][(2) No property or interest in property which is subject to a charge under sub-section (1) shall be transferred in any manner except by way of lease for a term not exceeding ten years without the previous permission of the society.

(3) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub-section (2) shall be void.

(4) Any person who in contravention of the provisions of sub-section (2) transfers any property which is subject to a charge under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.]

Charge on immovable property of members borrowing loans from certain societies.

[2][**24AA.** Notwithstanding anything contained in this Act or in any other law for the time being in force—

[3](*i*) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land, make a declaration in the form prescribed by rules. Such declaration shall state that the applicant thereby creates a charge on the land owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances ;]

(*ii*) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Bombay Co-operative Societies (Amendment) Act, 1948, and who owns any land shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (*i*) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society ;

Bom. XXV. III of 1948.

(*iii*) a declaration made under clause (*i*) or (*ii*) may be varied at any time by a member with the consent of the society in favour of which such charge is created ;

(*iv*) no member shall alienate the whole or any part of the [4][land] specified in the declaration made under clause (*i*) or (*ii*) [5][until the whole amount borrowed by the member together with interest thereon is paid in full] :

Provided that standing crops on any such [4][land] may be alienated with the previous permission of the society ;

(*v*) any alienation made in contravention of the provisions of clause (*iv*) shall be void ;

(*vi*) subject to the prior claims of the Crown in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947, there shall be a first charge in favour of the society on the [4][land] specified in the declaration made under clause (*i*) or (*ii*) for and to the extent of the dues owing by him on account of the loan ;

Bom. XXV. III of 1947.

(*vii*) notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879, the Record of Rights maintained under the said Chapter shall also include the particulars of every charge on [4][land] created under a declaration under clause (*i*) or (*ii*).

Bom. V of 1879.

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[1] Sub-section (2) (3) and (4) were inserted by Bom. 28 of 1948, s. 13 (3).
[2] Section 24AA was inserted, *ibid*, s. 14.
[3] Clauses (*i*) and (*ii*) were substituted by Bom. 14 of 1949, s. 3 (*a*).
[4] This word was substituted for the words " immovable property " and " property ", *ibid*, s. 3 (*b*).
[5] These words were substituted for " until the loan is repaid in full ", *ibid*, s. 3 (*c*).

[1][*Explanation.*—For the purposes of this section, 'society' shall mean a society of which majority of the members are agriculturists and which is—

(*a*) a Resource society the primary object of which is to obtain credit for its members; or

(*b*) any other class of societies specified in this behalf by the Provincial Government by a general or special order.]

Deduction from salary to meet society's claim in certain cases.

[2][**24A.** (*1*) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the sociey in satisfaction of any debt or other demand owing by the member to the society.

(*2*) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society.

(*3*) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (*1*) as were in force on the date of the commencement of the Bombay Co-operative Societies (Amendment) Act, 1942.

(*4*) Nothing contained in this section shall apply to persons employed in Federal railways (within the meaning of the Government of India, Act, 1935), mines and oil-fields.] 26 Geo. 5, Ch. 2.

Charge and set-off in respect of shares or interest of member.

25. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

Shares or interest not liable to attachment.

26. Subject to the provisions of section 25, the share or interest of a member in the capital of a society or [3][the share or interest of a member, or officer or servant of a society] in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, [4][officer or servant] and neither the Official Assignee, under the [5]Presidency-towns Insolvency Act, 1909, nor a Receiver under the [5]Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest. III of 1909 V of 1920.

Transfer of interest on death of member.

27. (*1*) On the death of a member of a society such society may within a period of one year from the date of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the by-laws of the society, if duly admitted a member of the society, in accordance with the rules or the by-laws of the society, or if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such, member's share or interest as ascertained in accordance with the rules or by-laws:—

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[1] This Explanation was added by Bom. 14 of 1949, s. 3 (*d*).

[2] This section was inserted by Bom. 29 of 1942, s. 2, read with Bom. 28 of 1948, s. 2.

[3] These words were inserted by Bom. 28 of 1948, s. 15 (*i*).

[4] These words were inserted, *ibid.*, s. 15 (*ii*).

[5] *See* Central Acts.

Provided that such nominee, heir or legal representative, as the case may be, may require that payment shall be made by the society within one year from the death of the member of the value of the share or interest of such member ascertained as aforesaid.

(*2*) A society shall subject to the provisions of section 25 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(*3*) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of

28. The liability of a past member for the debts of a society as they existed at the time when he ceased to be a member, shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estates of deceased members.

29. The estate of a deceased member shall be liable for a period of [1][two years] from the date of his decease for the debts of a society as they existed at the time of his death.

Register of members.

30. Any register or list of members or shares kept by any society shall be *prima facie* evidence of any of the following particulars entered therein :—

(*a*) the date at which the name of any person was entered in such register or list as a member ;

(*b*) the date at which any such person ceased to be a member.

Admissibility of copy of entry as evidence.

31. (*1*) A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(*2*) In the case of such societies as [2][the [3][State] Government] by general or special order may direct no officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under sub-section (*1*), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

XVI of 1908.

Exemption from compulsory registration of instruments relating to shares and debentures of society.

32. Nothing in section 17, sub-section (*1*), clauses (*b*) and (*c*), of the [4]Indian Registration Act, 1908, shall apply to—

(*1*) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immoveable property ; or

(*2*) any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any rights, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(*3*) any endorsement upon or transfer of any debenture issued by any society.

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[1] The words "two years" were substituted for the words "one year" by Bom. 28 of 1948, s. 16.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] *See* Central Acts.

Power to exempt from income tax, stamp duty, registration and court fees.

33. (*1*) The [1][Central Government], by notification in the [2][*Official Gazette*], may, in the case of any society or class of societies, remit the income-tax or super-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits or in respect of interest on securities held by the society.

(*2*) The [3][Government] by notification in the [4][*Official Gazette*] may, in the case of any society or class of societies, remit—

(*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or any class of such instruments or awards of the Registrar or arbitrators under this Act are respectively chargeable; and

(*b*) any fee payable under the law of registration and of court fees for the time being in force.

[5][In this sub-section "Government" in relation to stamp-duty, means the Government [6][as defined in sub-section (*2*) of section 9 of] the Indian Stamp Act, 1899, in relation to court fees means the Government which is the appropriate Government for the purposes of the Court Fees Act, 1870, and save as aforesaid means the [7][State] Government.] II of 1899. VII of 1870.

State Government may give loans, contribute to share capital or guarantee debentures, share capital or dividend.

[8][**33A.** Subject to such conditions as the State Government may by general or special order specify in this behalf and to such other conditions as may be provided for by any law for the time being in force, the State Government may—

(*a*) give loans to societies,

(*b*) contribute towards the share capital of a society, [9]*

(*c*) guarantee the payment of principal debentures issued by a society or of interest thereon or both or the repayment of the share capital of a society to its members or the payment of dividend thereon at such rates as may be specified by the State Government, [10][or]

(*d*) guarantee the repayment of loans given by a co-operative bank to a society.]

[11][CHAPTER VI.

PROPERTY AND FUNDS OF SOCIETIES.]

Restrictions on loans.

34. (*1*) Except with the general or special sanction of the Registrar a society shall not make a loan to any person other than a member.

[12](*2*) * * * * * *

(*3*) [13][The [7][State] Government] may, by general or special order, prohibit or restrict the lending of money [14][on the security of moveable property or] on mortgage of immovable property by any society or class of societies.

Restrictions in borrowing.

35. A society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by the by-laws of the society.

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[1] The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Gazette of India*", *ibid.*

[3] The word "Government" was substituted for the words "Local Government", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were inserted, *ibid.*

[6] This portion was substituted for the words "which is the collecting Government for the purposes of" by the Adaptation of Laws Order, 1950.

[7] This word was substituted for the word "Provincial", *ibid.*

[8] This section was substituted for the original by Bom. 2 of 1952, s. 7.

[9] The word "or" was deleted by Bom. 18 of 1953, s. 3 and Second Schedule.

[10] This word was added, *ibid.*

[11] The words and figures "Chapter VI—*Property and Funds of Societies*" were substituted for the words "*Property and Funds of Societies*" by Bom. 8 of 1936, s. 2.

[12] Sub-section (*2*) was deleted by Bom. 28 of 1948, s. 17 (*i*).

[13] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[14] These words were inserted by Bom. 28 of 1948, s. 17 (*ii*).

Restrictions on other transactions with non-members.

36. Consumers', Producers' and Housing Societies may to the extent permitted by their by-laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions, if any, as [1][the Provincial Government] may by rules prescribe.

Investment of funds.

37. A society may invest or deposit its funds—

(*a*) in the Government Savings Bank ; or

(*b*) in any of the securities specified in section 20 of the [2]Indian Trusts Act, 1882 ; or

(*c*) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society other than one with limited liability ; or

(*d*) with any bank or person carrying on the business of banking approved for this purpose by the Registrar ; or

(*e*) in any other mode permitted by the rules [3][or by general or special order of the Provincial Government].

Restrictions on dividend.

38. No society shall pay a dividend to its members at a rate exceeding [4][6¼] per cent.

Reserve Fund.

39. (*1*) Every society which does or can derive a profit from its transactions shall maintain a reserve fund.

(*2*) In the case of a Resource or Producers' society at least ¼th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least 1/10th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 37, as [1][the Provincial Government] may by general or special order direct, or may, with the previous sanction of [1][the Provincial Government] be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

Contribution to educational fund of Bombay Provincial Co-operative Institute.

[5][**39A.** Every society which pays a dividend to its members at a rate of 4 per cent. or more shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute at such rate as may be prescribed.]

Restrictions on distribution of profits.

40. Subject to the provisions of section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund [6][and contribution, if, any, to the educational fund of the Bombay Provincial Co-operative Institute] may, together with any available profits of past years be distributed among its members and in the case of Consumers' and Producers' societies, also among persons who are

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] *See* Central Acts.

[3] These words were added by Bom. 28 of 1948, s. 18.

[4] The figures "6¼" were substituted for the figures "10", *ibid.*, s. 19.

[5] Section 39A was inserted, *ibid.*, s. 20.

[6] These words were inserted, *ibid.*, s. 21.

not members, to the extent and under the conditions prescribed by the rules or by the by-laws of such societies, provided that :—

(*a*) in the case of a Resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of [1][the Provincial Government] in this behalf ; and

(*b*) in the case of a Resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until 10 years from the date of registration of the society have elapsed.

Provident Fund.

41. Any society may establish a provident fund for its members [2][or officers or servants] out of contributions from such members [3][or officers or servants, as the case may be,] in accordance with by-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made to the reserve fund, provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 37 ; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Contribution to charitable purpose.

42. With the approval of the Bombay Central Co-operative Institute and after the payments prescribed by sub-section (*2*) of section 39 [4][and section 39A have been made] any society may—

(*a*) set aside a sum not exceeding 20 per cent. of its net profits, and

(*b*) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the [5]Charitable Endowments Act, 1890. VI of 1890.

[6][CHAPTER VII.

INSPECTION OF AFFAIRS.]

Inquiry by Registrar.

43. (*1*) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(*2*) The Registrar shall hold such an inquiry as is contemplated in sub-section (*1*) of this section—

(*a*) on the requisition of a society, duly authorised by rules made in this behalf to make such requisiton, in respect of one of its members, such member being itself a society,

(*b*) on the application of a majority of the Committee of the society,

(*c*) on the application of ⅓rd of the members of the society.

(*3*) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

(*4*) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

Inspection of books of indebted society.

44. (*1*) The Registrar may on the application of a creditor of a society inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society :

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 28 of 1948, s. 22 (*i*).

[3] These words were inserted, *ibid.*, s. 22 (*ii*).

[4] These words, figures and letter were substituted for the words "have been made to the reserve fund", *ibid.*, s. 23.

[5] *See* Central Acts.

[6] These words and figures "Chapter VII—*Inspection of Affairs*" were substituted for the words "*Inspection of Affairs*" by Bom. 8 of 1936, s. 2.

Provided that—

(*a*) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(*b*) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(*2*) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry.

45. Where an inquiry is held under section 43 or an inspection is made under section 44 the Registrar may apportion the costs, or such part of the costs, as he may think right, between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society:

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section unless the society or persons liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard;

(*b*) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

46. Any sum awarded by way of costs under section 45 may be recovered, on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to notice of society.

[1][**46A.** (*1*) If the result of any inquiry held under section 43 or an inspection made under section 44 discloses any defects in the working of a society the Registrar may bring such defects to the notice of the society and if the society is a member of a Federal society to the notice of the Federal society. The Registrar may also make an order directing the society or its officers or the Federal society to take such action as may be specified in the order to remedy the defects within the time specified therein.

(*2*) The Federal society or the society concerned may appeal against an order made by the Registrar under sub-section (*1*) to the Provincial Government within the time specified in the order.

(*3*) The Provincial Government may in deciding the appeal annul, reverse, modify or confirm the order of the Registrar.]

[2][CHAPTER VIII.

LIQUIDATION AND ARBITRATION.]

Winding up.

47. If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 or on receipt of an application made by three-fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion, in the case of a society that has not commenced working, or has ceased working, or possesses shares or members' deposits not exceeding Rs. 500, is of opinion that the society ought to be wound up he may issue an order directing it to be wound up, and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

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[1] Section 46A was inserted by Bom. 28 of 1948, s. 24.

[2] The words and figures "Chapter VIII—*Liquidation and Arbitration*" were substituted for the words "*Liquidation and Arbitration*" by Bom. 8 of 1936, s. 2.

Society may be wound up if membership is reduced.

48. Where it is a condition of the registration of a society that it shall consist of at least ten members who are majors, the Registrar may by order in writing direct the society to be wound up, if at any time it is proved to his satisfaction that the membership has been reduced to less than ten such members.

Effect of liquidation of society on past member or on estate of deceased member.

[1][**48A.** Notwithstanding anything contained in sections 28 and 29, when a society is directed to be wound up under section 47 or 48, the liability of a past member and the liability of the estate of a deceased member of the society, as it existed on the date on which the society was directed to be wound up, shall continue until all the liabilities of the society are met.]

Effect of cancellation of registration.

[2]**49.** When the affairs of a society for which a liquidator has been appointed under section 47 have been wound up, or, where no liquidator has been appointed after two months from the date of an order under section 47, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the society, and the society shall be deemed to be dissolved from the date of such order.

[3]* * * * * *

Powers of a liquidator.

50. A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things :—

(*a*) pay any class or classes of creditors in full ;

(*b*) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable ;

(*c*) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof ;

(*d*) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers to the assets of the society, such contribution including debts due from such members or persons ;

(*e*) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office ;

(*f*) to issue requisitions under section 59 upon the Collector for the recovery as arrears of land revenue of any sum ordered by him to be recovered as dues from members, or as a contribution to the assets of the society or to the cost of liquidation ;

(*g*) to get disputes referred to arbitration ;

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[1] This section was inserted by Bom. 14 of 1949, s. 4.
[2] Section 49 (*1*) was renumbered as 49, *ibid.*, s. 5.
[3] Sub-section (2) of section 49 was deleted, *ibid.*

(*h*) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate ;

(*i*) to determine by what persons and in what proportion the cost of the liquidation shall be borne ;

(*j*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;

(*k*) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved ;

(*l*) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same :

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from [1][a member or] a past member or the representative of a deceased member unless opportunity has been given to such [2][member or] past member or to such representative to answer the claim.

Power of Registrar to assess damage against delinquent promoters, etc.

50A. (*1*) Where, in the course of [3][an audit under section 22 or an inquiry under section 43 or an inspection under section 44 or], the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of [4][the officer conducting the audit or holding the inquiry or inspection, or of] the liquidator or of any creditor or contributory, examine into the conduct of such person and [5][after giving reasonable opportunity to the person concerned to submit his explanation], make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(*2*) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

Bar of suit in winding up and dissolution matters.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Disposal of surplus assets.

52. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the by-laws of the

[1] These words were inserted by Bom. 28 of 1948, s. 26 (*a*).
[2] These words were inserted, *ibid.*, s. 26 (*b*).
[3] These words and figures were inserted, *ibid.*, s. 27 (*i*).
[4] These words were inserted, *ibid.*, s. 27 (*ii*).
[5] These words were inserted, *ibid.*, s. 27 (*iii*).

society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following :—

(*a*) an object of public utility of local or communal interest,

(*b*) a charitable purpose as defined in section 2 of the [1]Charitable Endowments Act, 1890, VI of 1890.

(*c*) the Bombay Central Co-operative Institute, or may be placed on deposit with a Central Co-operative Bank until such time as a new society with similar conditions is registered when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Surplus assets of housing society.

53. Where the society directed to be wound up is a housing society, its assets, both moveable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said Society in a general meeting specifically called for the purpose and one shall be nominated by the Bombay Central Co-operative Institute. Such persons shall, for the purpose of winding up or dissolution of the society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met, may dispose of the surplus assets of the society if any, as provided in section 52.

Arbitration.

54. [2][(*1*)] If any dispute touching the [3][constitution or] business of a society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent, or servant of the society [4][past or present,] or between the society or its committee, and any officer, agent, member or servant of the society [4][past or present], it shall be referred to the Registrar for decision by himself or his nominee or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.

A dispute shall include claims by a society for debts or demands due to it from a member or past member or the heirs or assets of a past member [5][as well as claims by a member or past member or the heirs of a past member for any debts or demands due to him from the society,] whether such debts or demands be admitted or not :

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the question has been tried by a regular suit instituted by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings the Registrar shall take action as laid down in paragraph 1 of this section.

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[1] *See* Central Acts.

[2] Section 54 was renumbered as sub-section (*1*) of that section by Bom. 22 of 1952, s. 9.

[3] These words were inserted by Bom. 28 of 1948, s. 28.

[4] The words "past or present" were inserted by Bom. 16 of 1943, s. 2, read with s. 2 of Bom. 28 of 1948.

[5] These words were inserted by Bom. 41 of 1953, s. 4.

[1][(2) Where any dispute is referred under sub-section (1) for decision by the Registrar's nominee or to arbitration of arbitrators, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or the arbitrators, as the case may be, and may decide the dispute himself or refer it again to any other nominee appointed by him for decision :

Provided that no such dispute shall be withdrawn except on any of the following grounds :—

(*i*) the Registrar's nominee or the arbitrators have failed to decide the dispute within two months or such further period as may be allowed by the Registrar ;

(*ii*) the proceedings before the Registrar's nominee or any of the arbitrators are vitiated in consequence of corruption or misconduct on the part of the Registrar's nominee or any of the arbitrators, as the case may be.]

[2][**54A.** (*1*) In the case of any award made by the arbitrators under section 54, the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing— **Tribunal's power to modify, correct or remit award.**

(*i*) modify the award, or

(*ii*) set it aside and order that the dispute shall be referred back to the arbitrators in the manner provided under the said section, [3][or

(*iii*) pass such order thereon as it deems just.]

Provided that no such order shall be made—

(*a*) after the issue of a certificate under section 59 for the execution of the award, and

(*b*) except on any of the following grounds :—

(*i*) an objection to the legality of the award is apparent on the face of it, or

(*ii*) the award has been vitiated in consequence of corruption or misconduct on the part of any of the arbitrators, or

(*iii*) the award is in any way perverse.

(*2*) In making an order under sub-section (*1*) that the dispute shall be referred back to arbitration, the Tribunal may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(*3*) Where a dispute is referred back to arbitration under sub-section (*1*), the arbitrators shall make a fresh award within such time as may be fixed by the Tribunal. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.

(*4*) When the award is made by the arbitrators under sub-section (*3*), the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(*i*) modify the award, or

(*ii*) pass such order thereon as it deems just.

To such modification or order the proviso to sub-section (*1*) shall apply.]

[4][(*5*) The applications under sub-sections (*1*) and (*4*) shall be made within two months from the date of the award made by the arbitrators.]

[5][Provided that the Tribunal may admit any such application after the expiry of the said period of two months, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within the said period.]

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[1] This sub-section was inserted by Bom. 22 of 1952, s. 10.
[2] Section 54A was substituted for the original by Bom. 28 of 1948, s. 29.
[3] The word " or " and clause (*iii*) were inserted by Bom. 12 of 1950, s. 4 (*1*).
[4] Sub-section (*5*) was inserted, *ibid.*, s. 4 (*2*).
[5] This proviso was added by Bom. 41 of 1953, s. 5.

Attachment before award.

[1][**55.** (*1*)] Where a dispute has been referred to the Registrar under section 54 or to arbitration under clause (*g*) of section 50, the Registrar or his nominee or the arbitrators, as the case may be, if satisfied on inquiry or otherwise, that a party to such arbitration with intent to delay or obstruct the execution of any award that may be made,—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

may unless adequate security is furnished direct the conditional attachment of the said property; and such attachment shall have the same effect as if made by a competent Civil Court.

[2][(*2*) The Registrar or his nominee or the arbitrators, as the case may be, may in order to prevent the end of justice being defeated make such interlocutory orders pending the decision in a dispute referred to in sub-section (*1*) as may appear to be just and convenient.].

Appeal against decision of Registrar and his nominee.

[3][**56.** Any party aggrieved by any decision of the Registrar or his nominee under section 54 or sub-section (*3*) of section 54A or an order passed under section 55 by the Registrar or his nominee or arbitrator may, within [4][two months] from the date of the decision or order, appeal to the Tribunal] :

[5][Provided that—

(*a*) any appeals filed on or after the 1st day of April 1948 before the Registrar against the decision or order of his nominee made or passed under section 54, 54A or 55 shall be and are hereby transferred for decision to the Tribunal and shall be disposed of by the Tribunal, as if they were instituted before it under this section ;

(*b*) all appeals which would have been filed before the Tribunal against the decision or order of the Registrar or his nominee made or passed under the aforesaid sections, but which could not be filed only on the ground that the Tribunal was not constituted, may be filed before the Tribunal within a period of one month from the commencement of the Bombay Co-operative Societies (Amendment) Act, 1949, or before the 15th day of June 1949, whichever date is later, notwithstanding the fact that the period of one month provided by this section may have expired.] Bom. XIV of 1949.

Finality of order.

57. [6]* * * * The award of the arbitrators or a decision by the Registrar or his nominee under section 54 [7][or 54A] shall not be liable to be called in question in any civil or revenue court.

Powers to enforce attendance.

58. Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or

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[1] Section 55 was renumbered as section 55 (*1*), by Bom. 12 of 1950, *s.* 5.
[2] This sub-section was inserted, *ibid.*
[3] Section 56 was substituted for the original by Bom. 28 of 1948, s. 30.
[4] These words were substituted for " one month " by Bom. 12 of 1950, s. 6.
[5] This proviso was added by Bom. 14 of 1940, s. 6.
[6] The sentence " An order passed in appeal under section 56 shall be final and conclusive " was deleted by Bom. 28 of 1948, s. 31.
[7] The word, figures and letter " or 54A " were inserted by Bom. 17 of 1936, s. 4.

of section 63A] and every order passed by [1][the Provincial Government] in appeal against orders passed under [2][section 50] shall, if not carried out—

[3][(*a*) on a certificate signed by the Registrar or a liquidator, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

(*b*) be executed] according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

[4](*2*) * * * * *

[5][**59AA.** Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 59 shall be null and void as against the society on whose application the said certificate was issued.] Private transfer of property made after issue of certificate void against society.

[6][**59A.** (*1*) When in execution of an order sought to be executed under section 59, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or Assistant Registrar under clause (*a*) or (*b*) of sub-section (*1*), the Court or the Collector, as the case may be, may, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner. Transfer of property which cannot be sold.

(*2*) Subject to such rules as may be made in this behalf and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any other person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society.

[7]* * * * *

[8][**59B.** (*1*) Notwithstanding anything contained in sections 54 and 59, on an application made by a land mortgage bank for the recovery of arrears of any sum advanced by it to any of its members [9][or by a resource society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance] and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears. Recovery of moneys due to land mortgage bank.

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These word and figures were substituted, for the words, figures, letter and brackets "sections 50 54 or sub-section (*3*) of section 54A" by Bom. 28 of 1948 s. 32 (*iii*).

[3] This portion was substituted for the portion beginning with the word "be executed" and ending with the brackets and letter "(*b*)" by Bom. 16 of 1943, s. 3, read with s. 2 of Bom. 28 of 1948.

[4] Sub section (*2*) was repealed by Bom. 22 of 1935, s. 3.

[5] Section 59AA was inserted by Bom. 28 of 1948, s. 33.

[6] Section 59A was inserted by Bom. 22 of 1935, s. 4.

[7] The proviso was deleted by Bom. 28 of 1948, s. 34.

[8] Section 59B was inserted by Bom. 16 of 1943, s. 4, read with s. 2 of Bom. 28 of 1948.

[9] These words were inserted by Bom. 28 of 1948, s. 35 (*i*).

(*2*) A certificate granted by the Registrar under sub-section (*1*) shall be final and conclusive. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of land revenue.

(*3*) It shall be lawful for the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879, until the arrears due to the land mortgage bank [1][or the resource society] together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar. Bom. V of 1879.

Explanation.—For the purposes of this section—

[2](*1*) a land mortgage bank means the Bombay Provincial Co-operative Land Mortgage Bank or any other co-operative land mortgage bank which is registered under this Act and is a member of that bank.

[3](*2*) "financing of crops" and "seasonal finance" shall have the meanings given to them by the Bombay Agricultural Debtors Relief Act, 1947]. Bom. XXVIII of 1947.

[4][CHAPTER IX.

OFFENCES.]

Offences.

60. It shall be an offence under this Act if—

Default by a society, officer or member.

(*a*) a society with a working capital of Rs. 50,000 or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act required to give, send, do or allow to be done; or

Wilful neglect or default by a society, etc.

(*b*) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf; or

Wilful furnishing of false information.

(*c*) a society or an officer or member thereof wilfully makes a false return or furnishes false information; or

Disobedience of summons, requisition or order.

(*d*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act.

Penalty for officer sanctioning benami loans.

[5]**[60A.** Any officer of a society who wilfully recommends or sanctions, for his own personal use or benefit, loan in the name of any other person shall, on conviction, be punishable with fine which may extend to five hundred rupees.]

Penalty for offences not otherwise provided for.

61. Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding Rs. 50.

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[1] These words were inserted by Bom. 28 of 1948 s. 35 (*ii*).
[2] The figure and brackets "(1)" were inserted, *ibid.*, s. 35 (*iii*) (*a*).
[3] These brackets, figures and words were inserted, *ibid.*, s. 35 (*iii*) (*b*).
[4] The words and figures "Chapter IX—Offences" were substituted for the word "Offences" by Bom. 8 of 1936, s. 2.
[5] Section 60A was inserted by Bom. 28 of 1948, s. 36.

Prohibition of the use of the word "co-operative".

62. (*1*) No person other than a registered society shall without the sanction of [1][the Provincial Government] trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(*2*) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Cognizance of offences.

63. (*1*) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

V of 1898.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(*3*) No prosecution under this Act shall be lodged without the previous sanction of the Registrar, which shall not be given except after hearing the party concerned.

[2][CHAPTER X.

APPEALS AND REVISION.]

Bombay Co-operative Tribunal.

[3]**63A.** (*1*) The Provincial Government shall constitute a Tribunal, called the Bombay Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

(*2*) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(*3*) Any vacancy in the membership of the Tribunal shall be filled by the Provincial Government.

(*4*) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(*5*) The regulations made under sub-section (*4*) shall be published in the *Official Gazette*.

(*6*) The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as to it may seem fit.

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[1] The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words and figures "Chapter X—Appeals and Revision" were substituted for the words "Appeals and Revision" by Bom. 8 of 1936, s. 2.

[3] Section 63A was inserted by Bom. 28 of 1948, s. 37.

(7) An order passed in appeal, or in revision under sub-section (6), by the Tribunal shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court.]

Appeals.

64. An appeal against an order or decision of or sanctioned by the Registrar under section 10, 16, 45, 47, 50, 50A, [1]* * may be made by any party aggrieved or affected by the order or decision to [2][the Provincial Government] within two months of the date of the communication of the order.

Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.

64A. [2][The Provincial Government] and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them [2][except those referred to in sub-section (6) of section 63A] for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to [2][the Provincial Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, [2][the Provincial Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

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[4]CHAPTER XI.

[5][6* FARMING SOCIETIES.]

Application of this Chapter.

[7][**64B.** This Chapter shall apply to [6]* Farming Societies :

Provided that the Provincial Government may, by general or special order, direct that the provisions of this Chapter shall also apply to any other class of societies and thereupon they shall apply as if such societies were [6]* Farming Societies.]

Definitions.

64C. In this chapter, unless there is anything repugnant in the subject or context,—

(*a*) " Board " means the Board constituted under section 64D ;

[8]* * * * * * *

(*c*) " Director of Agriculture " means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by [2][the Provincial Government] to perform the duties of the Director of Agriculture under this Act ;

(*d*) " Inquiry Officer " means an officer appointed to hold an inquiry under this Chapter ;

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[1] The figures, words, brackets and letter " 54, or sub-section (3) of section 54A " were deleted by Bom. 28 of 1948, s. 38.

[2] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[3] These words, brackets, figures and letter were inserted by Bom. 28 of 1948, s. 39.

[4] Chapter XI was inserted by Bom. 8 of 1936, s. 3.

[5] These words were substituted for the words " Crop Protection Societies " by Bom. 28 of 1948, s. 40.

[6] The word " Better " was deleted by Bom. 14 of 1949, s. 7 (*1*).

[7] Section 64B was substituted for the original by Bom. 28 of 1948, s. 41.

[8] Clause (*b*) was deleted by Bom. 14 of 1949, s. 7 (2).

(*e*) " Owner " includes an owner in severalty in common or joint and includes also an occupant as defined in the Bombay Land Revenue Code, 1879, a permanent tenant or tenant holding a lease for a period of not less than ten years and a mortgagee in possession. Bom. V of 1879.

64D. (*1*) For the purposes of this Chapter there shall be constituted a Board consisting of the Registrar and the Director of Agriculture. Constitution of Board.

(*2*) If there is a difference of opinion between the members of the Board regarding any question under the provisions of this Chapter, such question shall be referred to [1][the Provincial Government] and shall be determined in accordance with the decision of [1][the Provincial Government].

64E. (*1*) The Board shall appoint an Inquiry Officer for the purpose of holding inquiries under this Chapter. Appointment of an Inquiry Officer and his powers.

(*2*) For the purpose of such inquiries, the Inquiry Officer shall have—

(*a*) all the powers of the Registrar under section 58,

(*b*) power to enter upon, survey and take levels of lands proposed to be included in the scheme, to dig or bore into subsoil and to do all acts necessary for the purpose of the inquiry.

64F. (*1*) Persons interested in a [2][[3]* farming scheme] may make an application to the Registrar for the registration of a [4][[3]* Farming society.] Such application shall be made in accordance with the provisions of section 9 and shall specify the area affected by the scheme. It shall be accompanied by— Preliminary procedure.

(*a*) a detailed description and estimate of the cost of such scheme ;

(*b*) the names of such of the owners of the lands to be included in the scheme as may have given their consent to the making of the scheme ; and

(*c*) such other particulars as may be prescribed by rules.

(*2*) The application together with its accompaniments shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate.

64G. No [4][[3]* Farming society] shall be registered under section 10, unless the Board is satisfied, after such inquiry as it thinks necessary, that the scheme proposed by the society is feasible and that not less than 66 per cent. of the owners [5][in possession of not less than 75 per cent. in aggregate] of the land proposed to be included in the scheme have given their consent to the making of the scheme. For this purpose the Board shall record or cause to be recorded— Registration.

(*a*) a plan showing the area affected by the proposed scheme and the surrounding lands as shown in the map or maps of the village or villages affected.

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words " crop protection scheme " by Bom. 28 of 1948, s. 43.

[3] The word " better " was deleted by Bom. 14 of 1949, s. 7 (*3*).

[4] These words were substituted by Bom. 28 of 1948, s. 40.

[5] These words and figures were substituted for the words and figures " owning in aggregate not less than 75 per cent." *ibid.*, s. 44.

(*b*) an examination of the proposed scheme, with any amendments therein proposed by the Board ;

(*c*) an extract from the record of rights showing the names of the owners of the lands, and the areas of the lands to be included in the scheme as approved by the Board ;

(*d*) statements of such of the owners of such lands as consent to the making of such scheme signed by such owners before the Board or such officer as may be prescribed by rules ;

(*e*) a detailed estimate of the costs of such scheme ;

(*f*) a detailed statement showing how the cost is proposed to be met.

Publication of the scheme and inviting claims and objections.

64H. If the society is registered, the scheme shall be published along with the plans, in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate, together with a general notice inviting claims, if any. Separate notices shall, as far as possible, also be served on all owners of lands affected by the scheme and on all persons believed to be interested in the said lands. Such general and separate notices shall require all persons affected by the scheme who make any claims to appear personally or by agent before the Inquiry Officer at a time and place therein mentioned (such time not being earlier than fifteen days after the date of the publication of the scheme).

Inquiry by the Inquiry Officer.

64I. On the date fixed in the notices issued under section 64H or any other day to which the inquiry has been adjourned, the Inquiry Officer shall proceed to inquire into the claims (if any) which may have been made pursuant to the notices and shall hear and decide any other matter which may be required to be heard and decided by or under the provisions of this Chapter.

Decision of disputed claim.

64J. (*1*) If there is a dispute as to the ownership or possession of any piece of land proposed to be included in the scheme, the Inquiry Officer shall decide the dispute in accordance with the entries relating to such land in the Revenue records kept under any law for the time being in force. If there is no such record, or if in the opinion of the Inquiry Officer the entries in the Revenue record are inaccurate or inconclusive, he shall refer the matter to the Collector for decision. When the Collector decides such dispute, he shall communicate his decision to the Inquiry Officer and such decision shall, subject to the provisions of sub-section (*2*), be final for the purpose of the inquiry under this Chapter.

(*2*) In the event of a civil court passing a decree which is inconsistent with such decision, such decision shall be corrected, modified or rescinded in accordance with such decree, after such decree has been brought to the notice of the Inquiry Officer or the Board either by the civil court or by some person affected by such decree.

Report of Inquiry Officer.

64K. (*1*) After the inquiry under section 64I is completed, the Inquiry Officer shall make a report to the Board containing the following particulars :—

(*i*) the names of all the owners of lands affected by the scheme and the nature and extent of the right or interest of each in respect of such land,

(*ii*) the names of all persons whose rights or liabilities are affected and the manner in which they are affected by the scheme,

(*iii*) a detailed estimate of the net cost of the scheme to be borne by the society,

(*iv*) a detailed estimate of the amounts of compensation to be paid to, or of the amounts to be recovered from, persons affected by the scheme,

(*v*) the manner in which recurring costs of the maintenance of, and other expenses incidental to, the scheme shall be fixed and recovered,

(*vi*) any other particulars prescribed by or under the Act or the rules.

(*2*) Such report shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands included in the scheme are situate and separate notice of such report shall as far as practicable be given to all persons mentioned in clause (*ii*) of sub-section (*1*).

(*3*) Any person aggrieved by the report of the Inquiry Officer may appeal to the Board.

Board may sanction scheme with or without modification or may refuse to give sanction.

64L. (*1*) On receipt of the report of the Inquiry Officer the Board may, in consultation with the Collector, after deciding such appeals as may have been made under section 64K and making such further inquiry as it may think fit, either sanction with or without modifications or refuse to give sanction to the scheme.

Appeal.

(*2*) Any person aggrieved by the decision of the Board may, within a period of the thirty days from the date of such decision, appeal to [1][the Provincial Government], who may pass such order as they deem fit.

Scheme to become final on publication.

(*3*) If an appeal is made within the period prescribed in sub-section (*2*) and [1][the Provincial Government] decide to sanction the scheme with or without modifications, the scheme as sanctioned by [1][the Provincial Government], or, if no appeal is made within the period aforesaid, the scheme as sanctioned by the Board, shall be published in the [2][*Official Gazette*] and in any other way which may be prescribed and shall, on such publication, be final.

Effect of scheme.

64M. On the day on which the scheme as sanctioned is published under section 64L, it shall come into force and all the owners of lands included therein, whether they are members of the society or not, shall have such rights and shall be subject to such liabilities as are conferred or imposed on them under the scheme.

Power to enforce scheme.

64N. On and after the day on which the scheme comes into force, the [3][[4]* Farming society] concerned may, after giving the prescribed notice and in accordance with the provisions of the scheme, execute any work which it is the duty of any person to execute under the scheme. Any expense incurred by the society under this section may be recovered from the persons in default in the manner prescribed in section 64Q.

Contribution towards the costs of the scheme.

64O. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the society from each owner of land affected by the scheme including those who may have refused to become members of the society in accordance with the decision of the Board.

(*2*) The owner of the land affected by the scheme shall be primarily liable for the payment of the contribution leviable in respect of such land.

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[1] The words, "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Better Farming Society" were substituted for the words "Crop Protection Society" by Bom. 28 of 1948, s. 40.

[4] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (*3*).

Dues of [1][2*Farming societies] to be first charge.

64P. Subject to the provisions of section 24, any outstanding demands or dues payable to a [1][2 * Farming society] by any member or past member in respect of any rent, shares, loans, contributions, or any other rights or amounts payable to such society shall be a first charge upon his interest in the crops or other agricultural produce on the land included in the scheme.

Recovery of arrears.

64Q. Any sums due to a society under the provisions of this Chapter shall, on application for its recovery being made by such society, be recoverable by the Collector according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

Power to exempt Farming societies from provisions of Chapter XI.

[3][**64R.** (*1*) Notwithstanding anything contained in section 64B, the Provincial Government may, by general or special order to be published in the *Official Gazette*, exempt any Farming society or class of such societies from any of the provisions of Chapter XI.

(*2*) Any Farming society in respect of which a certificate of registration has been issued by the Registrar under section 10 before the date on which the Bombay Co-operative Societies (Amendment) Act, 1949, comes into force, shall be deemed to have been validly registered, notwithstanding that any of the provisions of Chapter XI as to registration have not been complied with.] Bom. XIV of 1949.

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[4][CHAPTER XII.

MISCELLANEOUS.]

Recovery of sums due to the Crown.

65. (*1*) All sums due from a society or from an officer or member or past member of a society as such to [5][the Crown], may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(*2*) Sums due from a society to [5][the Crown] and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members or past members subject to the limit of their liability; and, thirdly in the case of other societies, from the members or past members.

(*3*) The liability of past members shall in all cases be subject to the provisions of section 28.

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[1] The words "Better Farming Societies" were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.

[2] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (3).

[3] This section was inserted, *ibid.*, s. 8.

[4] The words and figures "Chapter XII—Miscellaneous" were substituted for the word "Miscellaneous" by Bom. 8 of 1936, s. 4.

[5] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Power to exempt societies from conditions as to registration.

66. Notwithstanding anything contained in this Act, the [1][Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt societies from provisions of Act.

67. [1][The Provincial Government] may, by general or special order to be published in the [2][*Official Gazette*], exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order; provided that no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case.

Indian Companies Act not to apply.

68. The provisions of the [3]Indian Companies Act of 1913, shall not apply to societies, registered under this Act. VII of 1913.

Branches, etc. of societies outside the Presidency.

69. Every Co-operative Society registered outside the Bombay Presidency, which has or establishes a branch or place of business in the Bombay Presidency shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and, if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Bombay Presidency in addition to those submitted to the Registrar of the Province where it is registered.

Notice necessary in suits.

70. No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Rules.

71. (*1*) [1][The Provincial Government] may, for the whole or any part of the presidency and for any society or class of societies, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] See Central Acts.

(*c*) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation ;

(*d*) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership ;

(*e*) provide for ascertaining the value of a deceased member's share or interest ;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the Committee and other officers ;

[1][(*ga*) prescribe the manner of giving notice of the preliminary resolution under sub-section (*2*) of section 15A] ;

(*h*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society ;

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted ;

(*j*) provide for the persons by whom and the form in which copies of documents or entries in books of societies may be certified, and for the charges to be levied for the supply of such copies ;

(*k*) provide for the formation and maintenance of a register of members, and where the liability of the members is limited by shares, of a register of shares ;

(*l*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, and the period for which loans may be made, and the amount which may be lent to an individual member ;

(*m*) prescribe the prohibitions and restrictions subject to which societies may trade [2][or transact business] with persons who are not members ;

(*n*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society ;

[3][(*na*) prescribe the rate at which a society shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute] ;

(*o*) prescribe the extent to which a society may limit the number of its members ;

(*p*) prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies ;

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[1] Clause (*ga*) was inserted by Bom. 28 of 1948, s. 45 (*1*).

[2] The words "or transact business" were inserted by Bom. 8 of 1936, s. 5 (*a*).

[3] Clause (*na*) was inserted by Bom. 28 of 1948, s. 45 (*2*).

(*q*) prescribe the procedure to be followed in presenting and disposing of appeals ;

[1][(*qa*) prescribe the qualifications of the members of the Tribunal ;]

(*r*) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that shares shall not appreciate in value and that necessary capital shall be available for the society as required ;

(*s*) provide that persons qualified under the bye-laws of a society shall not be excluded from membership without due cause ;

(*t*) prescribe the procedure to be followed by a liquidator appointed under section 47 ;

(*u*) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator of arbitrators and for fixing and levying the expenses of determining the dispute ;

(*v*) provide for the issue and service of processes and for proof of service thereof ;

(*w*) provide for the writing off of bad debts ;

(*x*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(*y*) provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members ;

(*z*) provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred ;

(*aa*) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 47 ;

(*bb*) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same ;

(*cc*) prescribe the procedure to be followed for the custody of property attached under section 55 ;

(*dd*) provide for the payment of contribution at such rates and subject to such conditions as may from time to time be prescribed by co-operative societies to any provident fund which may be established for the benefit of officers and servants employed by them ; [2]*

(*ee*) prescribe the period and terms under which Government aid may be given to co-operative societies and the terms under which [3][the [4][State Government] may guarantee the payment of [5][the principal of and] interest on debentures issued by registered societies ;

[6][(*ff*) prescribe the particulars to be furnished by the persons applying for the registration of a [7][Farming society] under section 64F ;

(*gg*) prescribe the officer before whom the statements of owners referred to in section 64 G may be signed ;

(*hh*) prescribe the manner in which the inquiry shall be held by the Board or the Inquiry Officer under Chapter XI ;

(*ii*) prescribe the particulars to be mentioned in an Inquiry Officer's report under clause (*vi*) of sub-section (*1*) of section 64-K ;

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[1] Clause (*qa*) was inserted Bom. 28 of 1948, s. 45 (*3*).

[2] The word "and" was omitted by Bom. 8 of 1936, s. 5 (*b*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "the principal of and" were inserted by Bom. 22 of 1935, s. 5 (*1*).

[6] Clauses (*ff*), (*gg*), (*hh*), (*ii*), (*jj*) and (*kk*) were inserted by Bom. 8 of 1936, s. 5 (*c*).

[7] These words were substituted for the words "Crop Protection Society" by Bom. 53 of 1949, s. 3, Second Schedule.

(*jj*) prescribe the manner in which the scheme shall be published otherwise than in the [1][*Official Gazette*] under sub-section (*3*) of section 64-L;

(*kk*) provide for any other matter which is or may be prescribed or for which no provision exists and provision is, in the opinion of [2][the [3][State] Government], necessary for the purpose of carrying out a [4][farming scheme].

[5][(*ll*) prescribing the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 59A.]

(*3*) [2][The [3][State] Government] may, subject to such conditions, if any as it thinks fit, delegate all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) The rules so made shall be laid on the table of [6][each of the [7][Houses] of the [3][State] Legislature] for one month previous to the next session thereof and shall be liable to be rescinde or modified [8][by a resolution in which each of the [7][Houses] concurs at the said next session].

Saving of existing societies.

72. (*1*) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, or under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. X of 1904 II of 1912.

(*2*) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted, under the said Act shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Construction of references to Co-operative Societies Act, 1912, in enactments.

[9][**72A.** All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in [10]* India and for the time being in force in the Presidency of Bombay shall, in the application, to the said Presidency, of any such enactment, be read and construed as references to this Act and anything done or any proceeding commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been the reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.] II of 1912. II of 1912.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the words "crop protection scheme" by Bom. 53 of 1949, s. 3, Second Schedule.

[5] This clause, which was inserted by Bom. 22 of 1935, s. 5 (*2*) as clause (*ff*), was relettered as clause (*ll*) by Bom. 24 of 1936, s. 2, Sch.

[6] The words "each of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[8] The words "by a resolution in which each of the Chambers concurs at the said next section" were substituted for the words "by a resolution of the said Council tabled at its next session" by the Adaptation of Indian Laws Order in Council.

[9] This section was inserted by Bom. 8 of 1933, s. 2.

[10] This word "British" was omitted by the Adaptation of Laws Order, 1950.

[1]72B. Where any property is handed over to any society in pursuance of the provisions of sub-section (*2*) of section 59 prior to its repeal, such transfer to the society shall be deemed to be or to have been invalid and the validity of any term or condition of such transfer agreed between the Collector and the society under the said sub-section or of any rights or liabilities lawfully arising out of such transfer, term or condition shall not be deemed to be or to have been affected by the repeal of the said sub-section or by reason only of the fact that such property was not attached in execution of an order referred to in sub-section (*1*) of the said section.] Validity of transfer made under section 59 (*2*) of Bom. VII of 1925.

73. The enactments specified in the Schedule are hereby repealed in so far as they apply to the Bombay Presidency to the extent specified in the fourth column of the said Schedule. Repeal.

SCHEDULE.

Enactments repealed.

(*See* section 73.)

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1912	... II	The Co-operative Societies Act, 1912[2]	... The whole.
1920	... XXXVIII	The Devolution Act, 1920[2]	... So much as relates to Act II of 1912.
		Act of the Governor of Bombay in Council.	
1920	... I	The Bombay Land Revenue Code (Amendment) Act, 1920.	The whole.

[1] This section was inserted by Bom. 22 of 1935, s. 6.

[2] See Central Acts.